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BEFORE THE

Federal Communications Commission

WASHINGTON, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Biennial Regulatory Review — Amendment of)
Parts 0, 1, 13, 22, 24, 26, 27, 80, 87, 90, 95, 97,)
and 101 of the Commission's Rules to Facilitate)
the Development and Use of the Universal Li-)
censing System in the Wireless Telecommunica-)
tions Services)

WT Docket No. 98-20

To: The Commission

COMMENTS OF CELLNET DATA SYSTEMS, INC.

CellNet Data Systems, Inc. ("CellNet"),¹ by its attorneys, and pursuant to Section 1.415 of the Commission's Rules, hereby comments on the changes to the Commission's Rules with respect to the implementation of the Universal Licensing System ("ULS") proposed by the Commission in the *Notice of Proposed Rule Making* (FCC 98-25, released Mar. 18, 1998) ("NPRM") in the above-referenced proceeding.

CellNet, through its various wholly-owned subsidiaries, is the licensee of or applicant for more than 180 private microwave (specifically Multiple Address System) radio stations under Part 101 of the Commission's rules. CellNet uses these licenses to provide a variety of information services over its private internal network, primarily to electric and gas utilities and cooperatives. CellNet has over six years experience in applying for licenses with unique technical and operating characteristics that often do not fit into the generic application mold. Based on this experience, CellNet agrees with the proposed framework of the ULS, and provides comments on those few areas

¹ CellNet was organized as Domestic Automation Company in 1984, became CellNet Data Systems, Inc. in 1993, and became a publicly traded company (trading on NASDAQ) in 1996.

on which relatively minor changes will substantially improve the overall effectiveness of the Commission's licensing system. CellNet also believes that the proposed streamlining of procedural and application-related rules will provide a strong complement to the ULS, although, as discussed below, a few of the Commission's proposed requirements may actually reduce the efficiencies that could otherwise be gained from the ULS in the absence of such requirements.

INTRODUCTION

CellNet uses Multiple Address System ("MAS") stations, along with unlicensed Part 15 devices, to design, construct, own and operate private radio networks that are used to provide a variety of information processing services to its customers. Currently, the principal application of these networks is the provision of remote meter reading services to electric and gas utility companies. CellNet is also working to develop other data monitoring and control services, including the monitoring of vending machines, smoke and fire alarms, and home energy management systems.

The key to CellNet's success has been its development of a new wireless data network technology that allows for the low cost deployment of a very high capacity network, using relatively modest amounts of spectrum. Utilizing a mini-cellular architecture in which each MAS channel is divided into as many as ten subchannels, CellNet is able to utilize between 12 and 24 master MAS stations, and thousands of remote MAS stations, to serve hundreds of thousands of Part 15 radios at the endpoints on each licensed channel within the same geographic area; this compares extremely well to a conventional MAS network which can deploy as few as one master and four to ten remote MAS stations today.

To achieve this spectrum utilization, CellNet had to obtain significant waivers with its initial deployment of licenses; followed by rules changes (adopted as part of the Part 101 rewrite) to allow the use of subchannels, on the one hand, and the placement of masters and remotes within a

geographic area around a fixed point, on the other; and finally licensing policies designed to implement the new rules. Throughout this process, CellNet has worked within the framework of forms and application formats that do not easily translate to its use of the channels, and often suffered substantial delays in obtaining licensing grants as the FCC's processing staff worked to adapt its processing procedures to the extraordinary applications being filed. A move toward a universal licensing scheme that can make the entire licensing process more efficient is therefore welcomed by the company. CellNet believes that the proposed ULS can reduce the amount of time spent in the preparation and processing of applications, and should therefore be adopted expeditiously.

I. CellNet Supports Proposed Procedural Rules Designed to Reward Diligent Licensees and Penalize Those Who Are Not.

In the *NPRM*, the FCC has proposed to provide automatic pre-expiration notification to licensees 90 days prior to license expiration, and to eliminate the reinstatement option for those licensees who fail to timely file renewal applications. CellNet supports these proposals.

It is entirely appropriate for the FCC to provide notice of a pending license expiration to licensees. While it could be argued that true diligence by licensees would eliminate the need for such notification, in fact, knowledge of the term of a license is not among the highest priorities for licensees, who are necessarily more focused on the operation of the station. By the same token, once notified that renewal is necessary, there are few legitimate reasons why a licensee should not be able to make the requisite renewal filings.² Therefore, elimination of the reinstatement process will

² CellNet has little sympathy for those who may argue that FCC issued notices may not find their way to the appropriate licensee address or personnel. It is incumbent on licensees to maintain such information current in the FCC's database; the ULS should enhance the ability of licensees to do so efficiently and with little expense. Moreover, the ninety day notice should be viewed as a "tickler" and not as the basis for a licensee being made aware of its

increase licensing efficiency by removing an unnecessary regulatory cushion, allowing the FCC automatically to eliminate a non-renewed station from the database. Vigilant licensees will not be affected by this change, especially with the receipt of pre-expiration notifications well in advance of license expiration.

The Commission has also proposed to establish a uniform requirement that licensees certify completion of construction. In addition, reminder notices would be sent to licensees at a predetermined time prior to the construction deadline. The certification process proposed simply requires the licensee to update the FCC Form 601 already on file to establish construction of the authorized facilities.

CellNet strongly supports this proposal; it will be especially valuable for MAS licensees in the private microwave service. A chronic problem with MAS licensing is the existence of unconstructed stations which have never been returned or revoked, and therefore continue to appear in the FCC's database. The existence of these stations create a faux congestion in the MAS spectrum, and act as "land mines" for purposes of frequency coordination or short-spacing situations. In many cases, the licensees no longer are in business, and therefore cannot be reached to return their licenses, and the spectrum is therefore effectively unusable. With no mechanism in place to easily identify the existence of stations that were not constructed within the regulatory deadlines, and/or a mechanism for automatically removing such stations from the license database, these licenses remain in the FCC's records, preventing others from utilizing these channels.

Under the Commission's proposal, licensees will be reminded of upcoming construction deadlines, and if a certification is not filed verifying construction, the licensee will be notified by

renewal obligation, which stands as an independent responsibility of the licensee.

letter that the authorization has been terminated. If the licensee has not affirmatively requested reconsideration within thirty days after the termination letter is issued, the license should be automatically removed from the FCC's database. In CellNet's view, the termination of unconstructed licenses will benefit the public by placing warehoused spectrum back into circulation, greatly increasing spectrum utilization and efficiency.

CellNet suggests that a 60 day notice period is an appropriate time frame for FCC reminders. CellNet also suggests that public notices announcing the termination of unconstructed licenses should simultaneously announce procedures for eligible entities to submit applications to operate on the newly opened channels. In this way, spectrum will be most quickly and effectively made available for those entities who will put such spectrum to use.

The *NPRM* also proposes that in cases where license modifications have been granted, but the licensee determines that the modification will not be implemented, the licensee should file new modification applications requesting the return of the license to its original pre-modification status. CellNet does not believe that this proposal should be implemented, as it will create a burden of unnecessary filings on licensees.

Licensees often have legitimate business-related reasons for not completing previously proposed license modifications. If a modification is not constructed, then the licensee will not certify completion of construction; in such circumstances, the ULS should be able to cancel the modification authority just as it was able to cancel the original construction permit for non-construction; the only difference would be that instead of terminating the license, the ULS should return the license to its status immediately preceding the modification grant. This should simplify the licensing process for modifications, treating them in the same fashion as initial licensing is

handled, without undue and repetitive filings to reflect the construction or lack of construction of any particular modification.

II. Procedures Are Needed for the Submission of Additional Information Not Contained in the Standard Applications Forms.

As discussed above, CellNet utilizes unique technology with its MAS networks. As a consequence, CellNet must routinely file additional technical information in the form of attached pages produced as a standard word processing document. In order to make electronic versions of such filings most efficient, CellNet suggests that the Commission incorporate an option into the ULS application form that permits the submission of any additional information, including any elaborations on certain questions, as text directly onto the electronic form itself. This would avoid the need to submit the application with an attached electronic file containing the additional information. Such an option would make electronic filings less cumbersome for applicants such as CellNet and any other applicants needing to provide information in addition to standard responses.

III. CellNet Supports Most of the Other Streamlining Proposals.

In addition to the above, CellNet supports the following proposals:

- As proposed, the two categories of minor filings under Part 101 should be combined, and licensees should be permitted to implement minor modifications without obtaining prior Commission approval.
- Frequency coordination should only be required for major changes. However, CellNet requests clarification as to whether evidence of frequency coordination, in the form of the current practice of submitting attachments from the coordinator, will be required in the ULS, or whether the preferred method of submitting the frequency coordination number in Item 10 of the Form 601 will suffice.

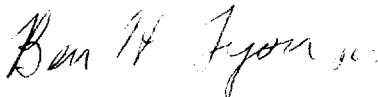
- CellNet agrees that the Commission should eliminate the microwave reporting requirements for type acceptance number, line loss, channel capacity, and baseband signal type.
- Proposed § 1.1111(c) should be amended to permit the receipt of fee payment within five business days after receipt of an application on the ULS. As currently proposed, allowing only one day for receipt of payment, whereby an application would be otherwise dismissed, is too short a time frame, especially when applications are filed during evening hours or checks are sent via U.S. mail.

CONCLUSION

The ULS can substantially reduce time spent on application preparation and processing, which benefits the FCC, licensees and the public. In accordance with the above comments, CellNet supports the Commission's implementation of ULS and associated rule changes.

Respectfully submitted,

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